HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.22968 of 2004

O R D E R :

1. The writ petitioner is a non-Governmental organization. It is represented by its President B.Govinda Reddy. The action of the respondents in not considering the application submitted by the petitioner for the release of the amounts under the project called “Street Children project” is assailed in the writ petition.

2. The case of the writ petitioner as disclosed from the affidavit filed in support of the writ petition be summarized in brief as follows:

The petitioner society is a registered society under Co-op. Societies Act bearing No.280/1980. The society undertook many developmental programmes such as protected drinking water, awareness camps in the villages of Thavanampalle, and Irala Mandals of Chittoor Distrrict. The society also conducted sanitary awareness camps in Penumuru and Puthalapattu Mandals with the help of Medical staff. It has also undertaken drilling of bore wells in rural areas in different villages for providing drinking water. Besides taking up the community development activities, the society is running leather craft making and training institution with the financial help from the Ministry of Human Resources development. The society undertook the task of providing education to the Street Children. The Government has formulated a scheme for the welfare of the Street Children. The petitioner’s society has applied to the respondents through the Government of Andhra Pradesh by an application in proforma on 23-8-2000 to educate 300 street children. The application was forwarded to the Director, Juvenile Welfare and Correctional Services Welfare of Street Children, A.P.Hyderabad. The Society started project on 5-4-2000. The Commissioner of Juvenile Welfare, directed the Regional Inspector of Probation, Chittoor, to conduct inspection of the petitioner society by his letter dated 07-09-2000. The Regional Inspector of Probation conducted a detailed inspection and submitted report dated 24-10-2000. He recommended for sanction of financial assistance to the tune of Rs.15,62,047/- 200 Street

children. The inspection report was forwarded to the Principal Secretary, Women Development, Child Welfare and Disabled Welfare Department, Government of Andhra Pradesh. The Principal Secretary, Government of Andhra Pradesh in turn sent his report to the Ministry of Social Justice & Empowerment, New Delhi-1st respondent. Thereupon, the 1st respondent directed the petitioner's Society to furnish some documents through his letter dated 14-5-2001. Despite furnishing the necessary documents and proper inspection reports, the 1st respondent has not chosen to consider the applications of the petitioner's society for release of Rs.38,41,114/- which amount has been spent by the petitioner Society for the development of the Children during the period from 5-4-2002 to 10-8-2002. Ultimately, the project came to be closed on 10-8-2002 due to lack of funds and all the Street Children were admitted into various schools through "Chaduvulathalli Programme" introduced by the Government of Andhra Pradesh. Since the 1st respondent has not chosen to consider the requests of the petitioner's society for reimbursement of Rs.38,41,114/-, the petitioner has filed this writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

3. The respondents filed counter affidavit. The sum and substance of the counter-affidavit is that the petitioner society was informed as early as 26-7-2001 itself about rejection of the scheme sponsored by it on the ground that the petitioner society has no experience in the proposed project. I deem it appropriate to refer para 6 and 7 of the Counter affidavit as follows:

> "6. That as the application was not in the prescribed format, the petitioner-Society was requested vide Ministry's letter dated 14th May, 2001, to send its proposal, along with necessary documents e.g., Annual Report, Audited Statement of Accounts for the year 2000-2001. On examination of documents, it was seen that the petitioner Organization had executed projects relating to rural development activities. It was observed that the petitioner Organization was not having requisite experience of working for Street children. Accordingly, vide this Ministry's letter No 12/01(07)/2001-02-SD (NGO) dated 26th July, 2001 they were informed that their proposal could not be acceded in view of their lack of experience. A copy of the letter is enclosed as Annexure-II. The letter sent by the Respondent Ministry was a regret letter

advising the organization to get sufficient experience with the street children before applying for grant to this Ministry. It is very clear that the Respondent Ministry rejected the application of the Petitioner for grant of funds and never gave any promise or commitment to the petitioner regarding release of grant in aid or reimbursement etc. The petitioner has not mentioned anything about this letter in his petition and this omission on the part of the petitioner has been made with the malicious intention to derive financial benefit out of Govt. of India by abusing the process and authority of the Hon'ble Court.

7.That it is denied that the Respondent Ministry had accepted the project of the Petitioner Organization. The Organization had been communicated vide Ministry's letter dated 26th July, 2001 that their proposal was not acceded to as the Organization was not having requisite experience with the street children. However, it is true that the Principal Secretary, Women Development, Child Welfare & Disabled Welfare Department, Government of Andhra Pradesh was requested to get the project inspected by the District Collector vide letter dated 28th January, 2002 and send the report within 15 days of receipt of the letter. However, no response was received by the Ministry from the Govt. of Andhra Pradesh, in spite of reminder letters dated 8th August, 2002, 21st August, 2002 and 5th September, 2002 nor was there any communication from the organization till the State Government letter No.7350/JJ.A2/2002 dated 28th January, 2004. Here, it may be submitted that after having conveyed to the Organization vide letter dated 26th July, 2001, that its proposal was not acceded to, there was no communication from the Ministry conveying that funds would be made available to the Organization for running the project. This Ministry sanctions funds only for future activities"

4. Head Sri S.Rama Moorthy Reddy, learned counsel for the petitioner and Sri.A.Rajashekhar Reddy, Assistant Solicitor General for the Central Government appearing on behalf of the respondents 1 to 4.

5. The learned counsel for the petitioner's society submits that the petitioner's society submitted an application on 23-8-2000 to educate 300 Street Children under the project sponsored by the petitioner Society and the same was

repeatedly inspected by the concerned authorities and there was no reason for the respondents to deny the financial grant for the project undertaken by the petitioner society. In support of his submissions, he refers the correspondence between the Additional Project Co-ordinator, DPEP, Chittoor and the District Collector, Chittoor and also the correspondence between the District Collector, Chittoor and the Commissioner, Juvenile Welfare and correctional Services Welfare of Street Children, A.P.,Hyderabad.

6. The learned Asst. Solicitor General appearing on behalf of the respondents 1 to 4 submits that the petitioner society was informed under letter dated 26-7-2001 with regard to disapproval of the project proposed by the petitioner society in view of lack of petitioner society experience in the project. He also submits that there is no scheme of re-imbursement of amounts spent by the petitioner's society. In support of his submissions, he refers to objectives and procedure of integrated programme for the Street Children sponsored by the Government. I deem it appropriate to refer the relevant portion in the scheme.

"Release of Grants-in-aid:

The grant will be released to selected organizations two equal half yearly instalments. The first instalment (50 per cent) will be released as soon as possible for the year to which the application pertains. An audited statement of accounts and the performance report for the previous year shall, however, be required before the second instalment is released. An organization shall before it receives assistance from the Government of India execute a Continuity Bond valid for 5 years in the prescribed proforma to the effect that in the event of its failure to comply by any and or all the conditions of the grant shall be liable to refund the whole or such part of the grant as the Government may decide with interest thereon.

Should the actual expenditure on the items for which assistance was sanctioned fall below the level at which the grant was determined, the organization shall be liable to refund unutilized portion of the grant to the government of India. The organization must exercise reasonable economy in expenditure on approved items. The organization shall maintain separate accounts of the grants received under this scheme. They shall always be open to check by an officer deputed by the Government of India. They shall also be opened to test check by Controller and Auditor general of India

at his discretion. The organization shall maintain a record of all assets acquired wholly or substantially out of government grant. Such assets shall not be disposed of, encumbered or utilized for purpose other than those for which the grants were given without prior sanction of the Government of India. The organization will also submit to the Ministry a statement showing the equipment purchased out of the assistance with its price. If an organization has already received or is expected to receive a grant from some other official sources for the purpose for which the application is being made under this scheme assessment of the grant will normally be made after taking into account grants from such other official sources. If it is found at a later date that the organization had withheld or suppressed information regarding the grant from other sources, the grant from Government of India may be cancelled, reduced or the organization may be asked to refund the grant already paid to it. The organization should have its own organizational budget for the year for which it proposes to apply for assistance. The service of the organization should be open to all citizens of India without distinction of religion, race, caste, language or any of them. The organization shall be open to inspection by an officer of the Central Government and the State Government or a nominee of these authorities. The organization shall furnish to the Ministry of Social Justice & Empowerment such information as the Ministry may require from time to time. "

7. The scheme nowhere contemplated reimbursement of amount spent by the non-governmental organization in implementing "An integrated programme for street children". Firstly, the non-Governmental organization must get admitted to the grant in aid and thereafter, seek release of the amounts under the scheme "An integrated programme for street children". Re-imbursement of the amounts spent by non-governmental organization for development of the Street Children is not contemplated in the scheme. Therefore, the relief prayed for by the writ petitioner cannot be granted.

8. Accordingly, I find the writ petition is devoid of merits and it is dismissed.

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Justice B. SESHASAYANA REDDY

Dated: 27-07-2005.

Dvs

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